

Order

Michigan Supreme Court
Lansing, Michigan

June 22, 2007

Clifford W. Taylor,
Chief Justice

133928 & (68)(69)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 133928
COA: 267238
Livingston CC: 05-014970-FH

GARY STEVEN UPHAUS,
Defendant-Appellee.

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the April 3, 2007 judgment of the Court of Appeals is considered and, it appearing to this Court that the cases of *People v Harper* (Docket No. 130988) and *People v Burns* (Docket No. 131898) are pending before this Court and that the decisions in those cases may resolve an issue in the present application for leave to appeal, we ORDER that the application be held in ABEYANCE pending the decisions in those cases. The motion to stay the precedential effect of the published Court of Appeals opinion is GRANTED. The decision of the Court of Appeals in this case is STAYED until resolution of this appeal. We note that *People v Drohan*, 475 Mich 140 (2006), remains controlling authority as to whether *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), applies to Michigan's sentencing structure.

KELLY, J., concurs only with the decision to abey.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 22, 2007

Corbin R. Davis

Clerk